

**OLD REPUBLIC NATIONAL
TITLE INSURANCE COMPANY**

**400 Second Avenue, South
Minneapolis, Minnesota 55401-2499**

**MARKET CONDUCT EXAMINATION REPORT
AS OF DECEMBER 31, 1998**

Exam Location

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Suite 100
Arvada, Colorado 80002**

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

**400 SECOND AVENUE, SOUTH
MINNEAPOLIS, MINNESOTA 55401-2499**

**MARKET CONDUCT
EXAMINATION REPORT
as of
December 31, 1998**

**Prepared by
Duane G. Rogers, Esq.
&
J. Reuben Hamlin, Esq.**

Independent Contract Examiners

September 30, 1999

The Honorable William J. Kirven III
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected rating, underwriting, claims and general business practices of the title insurance business of Old Republic National Title Insurance Company has been conducted. The Company's records were examined at its regional headquarters located at 7905 Ralston Road, Arvada, Colorado 80002.

The examination covered a one-year period from January 1, 1998 to December 31, 1998.

A report of the examination Old Republic National Title Insurance Company is herein respectfully submitted.

Duane G. Rogers, Esq. &
J. Reuben Hamlin, Esq.
Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

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COMPANY PROFILE

Old Republic National Title Insurance Company, hereinafter referred to as “the Company”, is a wholly owned subsidiary of Old Republic Title insurance Group which is a wholly owned subsidiary of the publicly traded Minnesota Corporation, Old Republic International Corporation. The Company is authorized to write title insurance coverage in Colorado and was first licensed in the State of Colorado on July 21, 1965.

The Company is engaged in the title insurance business on a nationwide basis and, as of January 1, 1998, was licensed as a title insurer in 48 states, the District of Columbia and Puerto Rico.

¹The Company first opened for business in 1907 in Minneapolis, Minnesota as Real Estate Title Insurance Company. In 1929 the Company acquired several local abstract companies in Minnesota, signed its first agents, and changed its name to Title Insurance Company of Minnesota. On December 31, 1992 the Company's name was changed to the present name, Old Republic National Title Insurance Company.

In 1978, the Company was acquired by Old Republic International Corporation, a national insurance holding company. Some years later, Old Republic Title Insurance Group was formed as a subsidiary of Old Republic International Corporation. The holding company has expanded its western operations with the acquisition of the Founders Title Group in California (now merged into and known as Old Republic Title Company) as well as the acquisition of two additional underwriters, Mississippi Valley Title Insurance Company and American Guaranty Title Company.

The Company maintains its national headquarters in Minneapolis and provides title insurance nationwide through independent agents and direct operations. Claims are adjusted through various regional offices located throughout the United States. The Colorado regional office, located in Arvada, Colorado, handles claims for both Colorado and Utah. The Company maintains a National Service Center in Minneapolis which coordinates services for large customers. Over 99% of all direct premiums written in Colorado during 1998 were written through the Company's exclusive independent agent, Land Title Guaranty Company. Less than 1% of the Company's total direct premiums written in Colorado during 1998 were written through the Company's National Service Center.

¹ The only states in which Old Republic National Title Insurance Company is not licensed as a title insurer are Oregon and Iowa.

As of December 31, 1998 the Company reported \$17,982,486 in direct premiums in Colorado representing 14% of the total Colorado title insurance market. Direct title premium in Colorado written through direct operations totaled \$20,082. Direct title insurance premiums written through nonaffiliated agents totaled \$17,962,404.²

² Figure representing direct premium written provided by the Company as reported in its Form 9 of its annual statement. Figure representing market share provided by the American Land Title Association (ALTA) National Headquarters, Washington, D.C.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law § 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct exams. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The market conduct examination covered by this report was performed to assist the Colorado Commissioner of Insurance to meet certain statutory charges by determining Company compliance with the Colorado Insurance Code and generally accepted operating principles. Additionally, findings of a market conduct examination serve as an aid to the Division of Insurance's early warning system. The intent of the information contained in this report is to serve only those purposes.

This examination was governed by, and performed in accordance with, procedures developed by the Colorado Division of Insurance based on the National Association of Insurance Commissioners Model Procedures. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company and its agents. The examination covers one calendar year of the Company's operations, from January 1, 1998 to December 31, 1998.

File sampling was based on review of systematically selected samples of underwriting and claims files by category. Sample sizes were chosen based on guidance from procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any concerns or discrepancies were noted on comment forms. These comment forms were delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample, the Company was provided a summary of the findings for that sample. The report of the examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report, as reference to any practices, procedures, or files that manifested no improprieties were omitted.

An error tolerance level of plus or minus \$10.00 was allowed in most cases where monetary values were involved, however, in cases where monetary values were generated by computer or system procedure a \$0 tolerance level was applied in order to identify possible system errors.

Additionally, a \$0 tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's rates on file with the Colorado Division of Insurance.

This report contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following seven Company operations:

1. Advertising
2. Complaint Handling.
3. Agent Licensing.
4. Underwriting Practices.
5. Rate Application.
6. Claims Settlement Practices.
7. Financial Reporting

All unacceptable or non-complying practices may not have been discovered throughout the course of this examination. Additionally, findings may not be material to all areas which would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance of such practices. This report should not be construed to endorse nor discredit any insurance company or insurance product. Statutory cites and regulation references are as of the period under examination unless otherwise noted. Examination report recommendations which do not reference specific insurance laws, regulations, or bulletins are presented to encourage improvement of company practices and operations and ensure consumer protection. Examination findings may result in administrative action by the Division of Insurance.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of fifteen issues, arising from the Company's apparent noncompliance with Colorado statutes and regulations concerning all title insurers authorized to transact title insurance business in Colorado. These fifteen issues fell into four of the seven categories of Company operations as follows:

Underwriting Practices:

In the area of underwriting, six (6) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements which must be followed whenever title policies are issued in Colorado. The incidence of noncompliance in the area of underwriting exhibits a frequency range between 2% and 73%. With regard to these underwriting practices, it is recommended that the Company review its underwriting procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to all six issues.

Rating:

In the area of rating, five (5) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements which must be followed whenever title policies are issued in Colorado and whenever title insurers or the insurer's agents conduct real estate or loan closing and/or settlement service for Colorado consumers. The incidence of noncompliance in the area of rating demonstrates an error frequency between 62% and 92%. With regard to the five compliance issues addressed in relation to the Company's rating practices, it is recommended that the Company review its rating manuals and procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to all three issues.

Claims Practices:

In the area of claim practices, three (3) compliance issues are addressed in this report. These issues arise from Colorado statutory and regulatory requirements dealing with the fair and equitable settlement of claims, payment of claims checks, maintenance of records, timeliness of payments, accuracy of claim payment calculations, and delay of claims. The incidence of noncompliance in the area of claims practices shows a frequency range of error between 8% and 40%. Concerning the three compliance issues encompassing Company claims practices, it is recommended that the Company review its claims handling procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to all eight issues.

Special Financial Reporting Requirements:

In the area of financial reporting, one-compliance issue is addressed in this report. This issue arose from specific Colorado statutory and regulatory requirements requiring title insurers to file certain financial data and to provide annual statistical justification and data to support title insurance rates used in Colorado. With regard this compliance issue, it is recommended that the Company review its annual filing procedures and make the necessary changes to assure future compliance with applicable statutes and regulations.

PERTINENT FACTUAL FINDINGS

Market Conduct Examination Report of OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

PERTINENT FACTUAL FINDINGS

for

UNDERWRITING

Issue A: Failure to provide written notification to prospective insureds of the Company's general requirements for the deletion of exceptions or exclusions to coverage related to unfiled mechanics or materialman's liens and/or the availability of mandatory GAP coverage.

Colorado Insurance Regulation 3 CCR 702-3 (3-5-1)(VII)(C), adopted in part pursuant to the authority granted under §§10-1-109 and 10-3-1110, C.R.S., states in pertinent part:

Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed.

Colorado Insurance Regulation 3 CCR 702-3 (3-5-1)(VII)(L), also adopted pursuant to the authority granted under §§10-1-109 and 10-3-1110, C.R.S., states in pertinent part:

VII. CONSUMER PROTECTIONS

L. Each title entity shall notify in writing every prospective insured in an owner's title insurance policy for a single family residence (including a condominium or townhouse unit) (i) of that title entity's general requirements for the deletion of an exception or exclusion to coverage relating to unfiled mechanics or materialman's liens, except when said coverage or insurance is extended to the insured under the terms of the policy and (ii) of the circumstances described in Paragraph C of Article VII of these Regulations, under which circumstances the title insurer is responsible for all matters which appear of record prior to the time of recording (commonly referred to as "Gap Coverage").

The Company standard policy form contains the following general exclusionary language for all unfiled mechanic or materialman's liens:

EXCLUSIONS

3. Title Risks:
 - That are created, allowed or agreed to by you
 - That are known to you, but not to us, on the Policy Date – unless they appeared in the public records
 - That result in no loss to you
 - That first affect your title after the Policy Date – this does not limit the labor and material lien coverage in Item 8 of Covered in Item 8 of covered Title Risks

Old Republic National Title Insurance Company, ALTA RESIDENTIAL FORM; ORT FORM 3375D, Page 2 Exclusions (ed. 1987).

A review of the Company's underwriting and rating manuals demonstrated that, in 1998, the Company offered coverage for unfilled mechanic's and materialman's liens. During 1998 such coverage was available through the Company via an extended coverage endorsement or by using Company endorsement 110.2 which insured over particular named exceptions. In addition, whenever a title insurer or its agent conducts a closing in relation to the title policy issued and is responsible for recording the documents resulting from the real estate transaction, Colorado Insurance Regulation 3 CCR 702-3(3-5-1)(VII)(L) mandates coverage for all matters appearing of record prior to the time of recording (GAP coverage).

The following sample demonstrated that, although the Company offered coverage for unfilled mechanic's and materialman's liens and was responsible for mandatory GAP coverage, the Company failed to make the appropriate written disclosures regarding its general requirements for unfilled mechanic's or materialman's lien coverage and failed to provide notice of the existence of GAP coverage where such notices were required:

TITLE POLICIES ISSUED-1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
51,030	100	12	12%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing .20% of all title policies issued by the Company in Colorado during 1998, showed 12 instances (12% of the sample) wherein the Company issued title insurance policies providing owner's coverage for risks associated with the title transfer of single family residences, condominiums or townhouses in Colorado. Each policy excepted coverage for unfilled mechanics or materialman's liens and GAP coverage. Coverage for unfilled mechanic's or materialman's liens was available through the Company by endorsement and, as the Company or its agent conducted the closing in each instance, GAP coverage was mandated by statute. However, in each instance the Company failed to provide the insured with the requisite written notice regarding the availability and/or prerequisites of such coverages as required by 3 CCR 702-3 (3-5-1)(VII)(L).

The 13% error frequency reported here is augmented by the fact that only 13 of the 100 policies reviewed were subject to this standard and required the written disclosure pertaining to the unfilled lien and GAP coverages. Specifically, only 13 of the 100 files reviewed were owner's title insurance policies insuring single family residences in which the Company, or its agent, conducted the real estate closing and was responsible for recording the documents of conveyance and did not have Owner's Extended Coverage or an endorsement removing the general exception or exclusion for unfilled mechanic or materialman's liens and GAP coverage. Therefore, the written disclosure was only required in 13 of the 100 files reviewed. The

Company failed to make the requisite disclosure in all 13 files which demonstrated that, whenever the written disclosures were required, the Company's error frequency was 100%.

Recommendation #1:

Within 30 days, the Company should demonstrate why it should not be considered in violation of §§10-3-1104(1)(a) and (1)(a)(I), C.R.S., and 3 CCR 702-3 (3-5-1)(VII)(L). In the event the Company is unable to provide such documentation, it should be required to provide evidence that it has amended its underwriting guidelines, agency agreements or other Company procedures necessary to implement the requisite change so that those procedures and guidelines include a requirement that will assure the Company will provide prospective insureds with written notification of the Company's general requirements for the deletion of the Company's general exception or exclusion to coverage for unfiled mechanic's liens and GAP coverage.

In addition, the Company should be required to perform a self audit of all claims denied due, in whole or in part, to the general exception or exclusion contained in the tile policy for unfiled mechanic or materialman's liens. The self-audit should cover a period from January 1, 1998 to present. After identifying the target denials, the Company should be required to accept liability for all claims identified by the audit in which the Company failed to provide the requisite written notice.

Issue B: Misrepresenting the benefits, advantages, conditions or terms of insurance policies by omitting applicable endorsements.

Sections 10-3-1104(1)(a)(I), C.R.S. defines certain unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(a) Misrepresentations and false advertising of insurance policies: Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, circular, statement, sales presentation, omission, or comparison which:

(I) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy; . . .

A review of the following sample demonstrated that, whenever the Company issued a title insurance policy in Colorado during 1998, the Company failed to identify or itemize the total premium charges for or list endorsements to the policy in a declarations page or otherwise include such information within the terms of title insurance policies issued.

TITLE POLICIES ISSUED-1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
51,030	100	73	73%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing .20% of all title policies issued by the Company in Colorado during 1998, showed 73 instances (100% of the sample) wherein the Company misrepresented the benefits, advantages, conditions or terms of insurance policies by omitting applicable endorsements. In all 73 instances the Company issued title insurance policies without itemizing the inclusive endorsements on a policy declaration page or otherwise disclosing such information within the written terms of the policy issued.

The Company's method of notifying prospective insureds of the premium charges and endorsements requested by the insured for inclusion in the prospective title insurance policy was to provide a statement of charges at the top of the respective insured/applicant's original commitment papers.

Upon issuing the title insurance policy the commitment papers were incorporated into the title policy, however, the Company omitted the listing of inclusive endorsements that appeared within the terms of the original commitment papers. Therefore, upon issuance of the policy, any endorsements or riders were not listed or otherwise itemized within the terms of the final policy issued. In addition, the only indication that an endorsement or rider amended a particular policy was that a copy of the endorsement or rider was included in the underwriting file and placed behind the policy. The endorsements were not otherwise "attached" to the policy and the

pages of the policy were not numbered (i.e. 1 of 1) to identify the length of the policy or otherwise identify the existence of any endorsements or riders.

Recommendation #2:

Within 30 days, the Company should demonstrate why it should not be considered in violation of §10-3-1104(1)(a)(I), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence that it has amended its policy forms and endorsements and underwriting guidelines and procedures and any other requisite Company operations so that all title policies issued by the Company incorporate a listing of any endorsements and/or riders on the policy declaration page or within the terms of the policy as to all future policies issued by the Company.

Issue C: Failure to obtain written closing instructions from all necessary parties when providing closing and/or settlement services for Colorado consumers.

Sections 10-3-1104(1)(a) and (1)(a)(I), C.R.S. define an unfair or deceptive trade practice in the business of insurance as:

(a) Misrepresentations and false advertising of insurance policies: Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, circular, statement, sales presentation, omission, or comparison which:

(I) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.

Colorado Insurance Regulation 3 CCR 702-3 (3-5-1)(VII)(G), adopted in part pursuant to the authority granted under §§10-1-109 and 10-3-1110, C.R.S., states:

No title entity shall provide closing and settlement services without receiving written instructions from all necessary parties.

The following sample demonstrated that, in some instances, the Company or its agent provided closing and/or settlement service in Colorado during 1998 without obtaining the requisite written closing instructions signed by all necessary parties.

TITLE POLICIES ISSUED-1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
51,030	100	20	20%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing .20% of all title policies issued by the Company in Colorado during 1998, showed 20 instances (20% of the sample) wherein the Company or its agent provided closing and/or settlement services for Colorado consumers without receiving written closing instructions from all necessary parties.

Recommendation #3:

Within 30 days, the Company should demonstrate why it should not be considered in violation of §§10-3-1104(1)(a) and (1)(a)(I), C.R.S., and 3 CCR 702-3 (3-5-1)(VII)(G). In the event the Company is unable to provide such documentation, it should be required to provide evidence that it has amended its underwriting guidelines, agency agreements or other Company operations necessary to assure that the Company and its agents will obtain written instructions from all necessary parties whenever the Company or its agents perform closing and settlement services in Colorado.

Issue D: Failure to follow Company underwriting procedures and/or guidelines.
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Section 10-3-1104(1)(f)(II), C.R.S. define unfair discriminatory underwriting practices as:

(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

TITLE POLICIES ISSUED-1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
51,030	100	56	56%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing .20% of all title policies issued by the Company in Colorado during 1998, showed 56 instances (56% of the sample) wherein the Company failed to follow its own underwriting guidelines.

Specifically, in 1998 the Company's underwriting manual provided:

RQ15 REQUIREMENT FOR DELETION OF STANDARD EXCEPTION A

- a. Standard Exception A (Survey Exception). We must be supplied with an acceptable survey certified to ALTA standards, Old Republic National Title Insurance Company and the proposed insureds. Upon receipt and review of said survey, the Final Policy will be subject to our findings but free and clear of the General Exception.

Old Republic National Title Insurance Company, EXCEPTIONS BOOK, § Q-Requirements to be met on B-I, at page 13 (ed. 1988).

All 56 reported instances were title policies issued by the Company with Owner's Extended Coverage (OEC). In each case the OEC endorsement deleted the standard exceptions of each Owner's Policy, including the standard survey exception. The Company, however, failed to follow its underwriting guidelines in these 56 instances in that the survey exception was deleted without obtaining the requisite ALTA approved survey required by operation of the Company's underwriting rule cited above.

Recommendation #4:

Within 30 days, the Company should demonstrate why it should not be considered in violation of §10-3-1104(1)(f)(II). In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has either amended its underwriting rules to comport with the Company's practice of issuing OEC without requiring a survey, or provide the Division with information demonstrating the Company has implemented procedures which will assure that all title policies issued by the Company will be issued in Compliance with written Company underwriting rules, procedures and/or standards.

PERTINENT FACTUAL FINDINGS

for

RATING

RATING SECTION 1

Schedule of Rates, Fees & Charges

TITLE INSURANCE POLICIES.

Issue E: Failure to provide adequate financial and statistical data of past and prospective loss and expense experience to justify certain title insurance premium rates.

Section 10-4-401(b), C.R.S., provides:

Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Section 10-4-403(1), C.R.S., provides:

Rates shall not be excessive, inadequate, or unfairly discriminatory.

Colorado Insurance Regulation 3 CCR 702-3(3-5-1)(VI)(K)), adopted in part to the authority granted under §10-4-404, C.R.S. provides:

K. Each title entity on an annual basis shall provide to the Commissioner of Insurance sufficient financial data (and statistical data if requested by the Commissioner) for the Commissioner to determine if said title entities' rates as filed in the title entities' schedule of rates are inadequate, excessive, or discriminatory in accordance with Part 4 of Article 4 of Title 10, C.R.S.

Each title entity shall utilize the income, expense and balance sheet forms, standard worksheets and instructions contained in the attachments labeled "Colorado Uniform Financial Reporting Plan" and "Colorado Agent's Income and Expense Report" designated as attachments A & B and incorporated herein by reference. Reproduction by insurers is authorized, as supplies will not be provided by the Colorado Division of Insurance.

Colorado Insurance Regulation 3 CCR 702-5(5-1-10)(III)(B)(1) and (4) provide:

(1) Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings

must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

(4) Each rate filing must be accompanied by rating data, as specified in § 10-4-403, C.R.S., including at a minimum past and prospective loss experience, loss costs or pure premium rates, expense provisions, and reasonable provisions for underwriting profits and contingencies, considering investment income from unearned premium reserves, reserves from incurred losses, and reserves from incurred but not reported losses

BUILDER/DEVELOPER DISCOUNTS.

The Company's 1998 rate manual contained a rule that provided a discount for certain developers or subdividers of properties. Specifically, the 1998 manual stated:

GENERAL RULES

For Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld counties

This section is applicable to title insurance insuring purchasers from and/or loans to residential builder/developers and commercial developers. Residential being defined as single family residence, duplex, triplex, fourplex, condominiums, and townhomes. Commercial being defined as large platted tracts of land encompassed under a recorded master plan development.

These rates are applicable only when a recognized builder/developer is involved. The rate per unit for owner's policies is based upon the full value of each separate sale. Where two or more lots or units of occupancy are sold to a common purchaser, the rate is based upon the aggregate value of the lots or units being conveyed.

The charges set forth herein are in addition to the charges for the policy insuring the owner upon acquisition of his estate or interest in the land if such policy was issued or is to be issued.

Note: The Short-term Rate does not apply to this area.

1. BUILDER/DEVELOPER RATE

Fifty percent of the Basic Schedule of Rates (for El Paso County see page 3).

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF COLORADO, Builder's Section at p. 1 (ed. 8/4/97).

Pursuant to 3 CCR 702-3(3-5-1(VI)(K)), adopted under the authority granted by §10-4-404, C.R.S. the examiners requested Company representatives to produce the Company's 1998 filing of financial and statistical data to demonstrate the above cited rate and/or rating rule was not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq. Since the Company was unable to produce the 1998 filing, the Company was asked to produce a prospective justification of the 1998 rates in accordance with the criteria established under the statutes cited above.

The Company's response to the examiners' request for statistical and financial justification of the Company's builder/developer discount rates was not sufficient justification of the cited rates and did not satisfy the requirements of §10-4-401 et seq., C.R.S. Specifically, the responses did not contain pertinent supporting financial or statistical data. In addition, the Company's responses did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of builder/developer discount rates.

VOLUME BUILDER'S DISCOUNTS.

In addition to the subdivider rate discussed above, the Company's 1998 base rate manual contained a rule that provided a volume discount for certain developers or subdividers of properties. The 1998 manual provided:

GENERAL RULES

For Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld counties

This section is applicable to title insurance insuring purchasers from and/or loans to residential builder/developers and commercial developers. Residential being defined as single family residence, duplex, triplex, fourplex, condominiums, and townhomes. Commercial being defined as large platted tracts of land encompassed under a recorded master plan development.

These rates are applicable only when a recognized builder/developer is involved. The rate per unit for owner's policies is based upon the full value of each separate sale. Where two or more lots or units of occupancy are sold to a common purchaser, the rate is based upon the aggregate value of the lots or units being conveyed.

The charges set forth herein are in addition to the charges for the policy insuring the owner upon acquisition of his estate or interest in the land if such policy was issued or is to be issued.

Note: The Short-term Rate does not apply to this area.

4. VOLUME BUILDER/DEVELOPER RATE

20 to 100 Units Per Year: When a builder anticipates building more than 20 units and less than 100 units per year, and the builder desires to pay for construction loan policies with a combined rate, the charge for both policies will be 65 percent of the scheduled rate based upon the sales price of the insurable unit.

101 to 250 Units Per Year: When a builder anticipates building more than 100 units and less than 250 units per year, the charge for policies to purchaser on unencumbered properties will be 45 percent of the scheduled rate based upon the sales price of the insurable unit. If the builder desires to pay for construction loan policies with a combined rate the charge for both policies will be 60 percent of the scheduled rate based upon the sales price of the insurable unit.

251 to 500 Units Per Year: When a builder anticipates building more than 250 units and less than 500 units per year, the charge for policies to purchaser on unencumbered properties will be 40 percent of the scheduled rate based upon the sales price of the insurable unit. If the property is encumbered with a construction loan the charge for policy will be 45 percent of the scheduled rate based upon the sales price of the insurable unit. If the builder desires to pay for construction loan policies with a combined rate the charge for both policies will be 55 percent of the scheduled rate based upon the sales price of the insurable unit.

501 to 1,000 Units Per Year: When a builder anticipates building more than 500 units and less than 1,000 units per year, the charge for policies to purchaser on unencumbered properties will be 35 percent of the scheduled rate less \$30, based upon the sales price of the insurable unit. If the property is encumbered with a construction loan the charge for policy will be 40 percent of

the scheduled rate less \$30, based upon the sales price of the insurable unit. If the builder desires to pay for construction loan policies with a combined rate the charge for both policies will be 50 percent of the scheduled rate less \$30, based upon the sales price of the insurable unit.

1,001 to 1,500 Units Per Year: When a builder anticipates building more than 1,000 units and less than 1,500 units per year, the charge for policies to purchaser on unencumbered properties will be 30 percent of the scheduled rate less \$30, based upon the sales price of the insurable unit. If the property is encumbered with a construction loan the charge for policy will be 35 percent of the scheduled rate less \$30, based upon the sales price of the insurable unit. If the builder desires to pay for construction loan policies with a combined rate the charge for both policies will be 45 percent of the scheduled rate based upon the sales price of the insurable unit.

More than 1,500 Units Per Year: When a builder anticipates building more than 1,500 units the charge for policies to purchaser on unencumbered properties will be 25 percent of the scheduled rate less \$30, based upon the sales price of the insurable unit. If the property is encumbered with a construction loan the charge for policy will be 30 percent of the scheduled rate less \$30, based upon the sales price of the insurable unit. If the builder desires to pay for construction loan policies with a combined rate the charge for both policies will be 40 percent of the scheduled rate less \$30, based upon the sales price of the insurable unit.

Note: In order for the builder to participate in the above listed filings, the builder agrees to inform purchaser that evidence of title, specific to the property, will not be provided until 20 days prior to closing. Title company will provide an all inclusive Subdivision Title Report for purchasers reflecting status of title for underlying property, by builder request, at no additional fee.

Note: Combined Rates. In the event builder requests use of the Combined Rate, builder agrees to pay a \$50 construction loan fee for the issuance of each individual lender policy. Furthermore, builder agrees that on all construction loans policies issued in the combined format to direct eventual sales to the Company. Should the builder fail to do so the builder will be liable to the Company for the cost of the lender policy insuring the construction lender.

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF COLORADO, Builder's Section at p. 1 (ed. 8/4/97).

Pursuant to 3 CCR 702-3(3-5-1(VI)(K)), adopted under the authority granted by §10-4-404, C.R.S. the examiners requested Company representatives to produce the Company's 1998 filing of financial and statistical data to demonstrate the above cited rate and/or rating rule was not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq. Since the Company was unable to produce the 1998 filing, the Company was asked to produce a prospective justification of the 1998 rates in accordance with the criteria established under the statutes cited above.

The Company's response to the examiners' request for statistical and financial justification of the Company's volume builder discount rates was not sufficient justification of the cited rates and did not satisfy the requirements of §10-4-401 et seq., C.R.S. Specifically, the responses did not contain pertinent supporting financial or statistical data. In addition, the Company's responses did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of volume builder discount rates.

ALL-INCLUSIVE FLAT RATES FOR BUILDERS/DEVELOPERS.

In addition to the discount programs discussed above, the Company's rating manual contained the following regarding an all-inclusive flat rate³ for mortgage companies, banks, and other mortgage lenders:

25. FLAT RATE (FOR LENDER DIRECTED "NO COST CONSUMER REFINANCE LOANS")

A flat rate for title and closing fees shall be given if all of the following conditions exist:

1. The order results in the issuance of a mortgagee's policy for a non-purchase transaction;
2. The lender absorbs all of the title and closing costs; and
3. The lender's anticipated statewide volume is in excess of 300 transactions per year.

The flat rate includes the following items:

1. Mortgagee's policy
2. Endorsements 100; 8.1; 115.2; 281.1; and/or 352.7A
3. Tax certificate
4. Recording fee
5. Closing fee

³ The all inclusive rate covers charges for both title insurance premium and closing and settlement fees and charges.

All inclusive charge:

Loans less than \$150,000	\$625
Loans \$150,000 through \$300,000	\$675
Loans greater than \$300,000	Filed Rate

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF COLORADO, Lender's Section at p. 7 (ed. 8/4/97).

Pursuant to 3 CCR 702-3(3-5-1(VI)(K)), adopted under the authority granted by §10-4-404, C.R.S. the examiners requested Company representatives to produce the Company's 1998 filing of financial and statistical data to demonstrate the above cited rate and/or rating rule was not inadequate, excessive, or discriminatory in accordance with 10-4-401 et seq. Since the Company was unable to provide a copy of the 1998 filing, the examiners requested Company representatives to provide a prospective justification of the rate.

The Company's response to the examiners' request for statistical and financial justification of the lender's all inclusive flat rate was not sufficient justification of the cited rate and did not satisfy the requirements of §10-4-401 et seq., C.R.S. Specifically, the responses did not contain pertinent supporting financial or statistical data. In addition, the Company's responses did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the lender's flat rate discussed above.

COUNTY-BY-COUNTY RATE DEVIATIONS FOR CONCURRENT LENDER POLICIES.

The Company's 1998 rating manual provided a discount for lender's policies issued in coordination with an accompanying owner's or lender's title policy. This discount, however, varied between counties. The rule provided:

When concurrent with owner's insurance on the same estate in land issued at full value of land and improvements.

Garfield	\$65
La Plata	\$60
Larimer	\$90
Pitkin	\$65
Summit	\$75
Weld	\$90
All Other Counties	\$100

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF COLORADO, Lender's Section at p. 1 (ed. 8/4/97).

Pursuant to 3 CCR 702-3(3-5-1(VI)(K)), adopted under the authority granted by §10-4-404, C.R.S. the examiners requested Company representatives to produce the Company's 1998 filing of financial and statistical data to demonstrate the above cited rate and/or rating rule was not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq. Since the Company was unable to produce the 1998 filing, the examiners requested Company representatives to provide a prospective justification of the 1998 rates in accordance with the criteria established under the statutes cited above.

The Company's response to the examiners' request for statistical and financial justification of the county-by-county fluctuation of concurrent lender policy premium rates was not sufficient justification of the cited rate and did not satisfy the requirements of §10-4-401 et seq., C.R.S. Specifically, the responses did not contain pertinent supporting financial or statistical data. In addition, the Company's responses did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the volume builder discount rate.

COUNTY-BY-COUNTY VARIATIONS FOR CONCURRENT CONSTRUCTION LOAN POLICIES.

The Company's rating manual contained a discount for construction loan policies issued in coordination with an accompanying owner's title policy. This discount, however, also varied between counties. The rule provided:

When concurrent with owner's insurance on the same estate in land issued at full value of land or contemplated improvements.

Garfield	\$65
La Plata	\$60
Larimer	\$90
Pitkin	\$65
Summit	\$75
Weld	\$90
All Other Counties	\$100

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF COLORADO, Lender's Section at p. 2 (ed. 8/4/97).

Pursuant to 3 CCR 702-3(3-5-1(VI)(K)), adopted under the authority granted by §10-4-404, C.R.S. the examiners requested Company representatives to produce the Company's 1998 filing of financial and statistical data to demonstrate the above cited rate and rating rule was not inadequate, excessive, or discriminatory in accordance with 10-4-401 et seq. Since the

Company could not produce the 1988 filing, the examiners requested Company representatives to provide statistical and financial justification of the 1988 rate.

The Company's response to the examiners' request for statistical and financial justification of the county-by-county rate differential for concurrent construction loan policies was not sufficient justification of the cited rate and did not satisfy the requirements of §10-4-401 et seq., C.R.S. Specifically, the responses did not contain pertinent supporting financial or statistical data. In addition, the Company's responses did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the above cited rates.

COUNTY-BY-COUNTY RATE FLUCTUATIONS; GENERALLY.

In addition to the Company rating rules discussed above, a review of statewide rate filings made by the Company and or its Colorado agents, raised certain questions regarding whether the Company's statewide rating scheme complied with the requirements of Colorado law. Specifically, the examiners questioned whether variances in rate charges among different Colorado counties was unfairly discriminatory under Colorado law or whether the county-by-county rating scheme in the business of title insurance resulted in excessive rates.

For instance, the Company's rate filings effective in 1997 for Boulder and Denver county resulted in different rates charged in each county. The premium charges for a basic ALTA owner's policy in Denver County were \$768.00 on a 100,000 home, or \$7.68 per thousand. Each additional thousand dollars of coverage over and above 100,000 carried an additional premium charge of \$1.85 per thousand.

The premium charges for the same coverage in Boulder County were \$580.00 on a 100,000 home, or \$5.80 per thousand. Just as in Denver County, each additional thousand dollars of coverage over and above the 100,000 carried an additional premium charge of \$1.85 per thousand.

Considering the significant reduction in premium charges for the first 100,000 in coverage in Boulder County as compared to Denver County, the examiner's questioned the per unit premium charge for coverage over \$100,000. Moreover, since the Company did not file a justification with its 1998 financial statement, the examiners asked the Company to justify and explain why the per unit charge for coverage in excess of \$100,000 was not reduced in Boulder County commensurate with the reduction for the first \$100,000 in coverage.

In addition, the examiners requested the Company to identify factors supporting an increase in premium charges in Denver as opposed to the lower rates charged in Boulder County. The Company was informed that its response should be a detailed answer describing past and prospective loss and expense experience. The Company was also asked to demonstrate how a reasonable profit provision is incorporated into the Company's premium charges for title

coverage, specifically indicating how the Company's investment income offsets the reasonable profit provision.

The Company's response was to consider differences in both premium rate charges and closing and settlement fees and charges between the following five counties:

1. DENVER
2. BOULDER
3. PUEBLO
4. LARIMER
5. EL PASO

In addition, the examiners requested the Company to justify its base rate charges in Adams, Arapahoe, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Kit Carson, Lake, Otero and Sedgwick counties and to explain why there was no variance in premium charges in those 12 counties. The Company was also asked to consider, if other counties in Colorado rationally supported varying rate filings, what the common factor, or factors, were which supported a uniform rate filing for the twelve counties.

Finally, the Company was asked to justify fluctuations in premium charges for a form 100 endorsement among separate counties. Specifically, the Company's filed rate for a form 100 endorsement was \$20.00 higher in three Colorado Counties. The following chart illustrates this point:

Endorsement Number & Description of Coverage	Denver County	Eagle County	La Plata County	Summit County
100 Restrictions 1 to 4 Family Dwellings	\$30.00	\$50.00	\$50.00	\$50.00

Pursuant to 3 CCR 702-3(3-5-1(VI)(K)), adopted under the authority granted by §10-4-404, C.R.S. the examiners requested Company representatives to produce the Company's 1998 filing of financial and statistical data to demonstrate the above cited rate and rating rule was not inadequate, excessive, or discriminatory in accordance with 10-4-401 et seq. Since the Company was unable to produce a copy of the 1988 report, the examiners requested Company representatives to provide financial and statistical justification of the rate in question.

The Company's response to the examiners' request for statistical and financial justification of the county-by-county rate fluctuations was not sufficient justification of the cited rates and did not satisfy the requirements of §10-4-401 et seq., C.R.S. Specifically, the responses did not contain pertinent supporting financial or statistical data. In addition, the Company's responses did not consider past and prospective loss and expense experience and the response did not

identify or explain how a reasonable profit provision was incorporated into the development of county-by-county rate fluctuations.

Recommendation #5:

Within 30 days, the Company should demonstrate why it should not be considered in violation of §10-4-403(1), C.R.S., and 3 CCR 702-3 (3-5-1)(VI)(A), (B) and (K) as applicable to the findings addressed in the text above. In the event the Company is unable to provide such documentation, it should be required to provide the Colorado Division of Insurance with adequate financial and statistical data of past and prospective loss and expense experience to justify the cited Company premium rates and closing and settlement fees and charges. The filing should specifically identify and explain how a reasonable profit provision is incorporated into the development of the Company's premium rates and closing and settlement fees and charges.

In addition, the Company should be required to provide written assurance that it will comply with the requirements of 3 CCR 702-3(3-5-1)(VII)(K) and submit an annual filing to the Colorado Division of Insurance of sufficient financial data (and statistical data if requested by the Commissioner) for the Commissioner to determine if said title entities' rates as filed in the title entities' schedule of rates are inadequate, excessive, or discriminatory in accordance with 10-4-401, C.R.S. et seq.

Issue F: Using rates and/or rating rules not on file with the Colorado Division of Insurance and/or misapplication of filed rates.

Section 10-4-401(3)(b), C.R.S., provides:

Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Additionally, Section 10-3-1104(1)(f)(II), C.R.S., defines unfair discrimination as:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Consistent with the provision of §10-4-401 et seq., 3 CCR 702-3(3-5-1) requires all title insurers offering coverage in Colorado to comply with Colorado laws and regulations regarding rates and rating practices. Specifically, the regulation provides in pertinent parts:

IV. SCHEDULE OF RATES, FEES AND CHARGES--TITLE INSURANCE POLICIES

A. Every title insurer shall adopt, print and make available to the public a schedule of rates, fees and charges for regularly issued title insurance policies including endorsements, guarantees and other forms of insurance coverages, together with the forms applicable to such fees. . .

. . .G. Such schedule must be filed with the Commissioner in accordance with Part 4 of Article 4, Title 10, C.R.S., and Section 118, Article 11, Title 10, C.R.S., and any applicable regulation or regulations on rates, rate filings, rating rules, classification or statistical plans. . . .

. . .J. No title entity shall quote any rate, fee or make any charge for a title policy to any person which is more or less than that currently available to others for the same type of title policy in a like amount, covering property in the same

county and involving the same factors as set forth in its then currently effective schedule of rates, fees and charges. . . .

. . .V. SCHEDULE OF FEES AND CHARGES--CLOSING AND SETTLEMENT SERVICES

A. Every title entity shall adopt, print, and make available to the public a schedule of fees and charges for regularly rendered closing and settlement services. . . .

. . .F. Such schedule must be filed with the Commissioner in accordance with Section 118, Article 11, Title 10, C.R.S., and Part 4 of Article 4, Title 10, C.R.S., and any applicable regulation or regulations on rates, rate filings, rating rules, classification or statistical plans. . . .

. . .I. No title entity shall quote any fee or make any charge for closing and settlement services to any person which is less than that currently available to others for the same type of closing and settlement services in a like amount, covering property in the same county and involving the same factors, as set forth in its then currently effective schedule of fees and charges.

Colorado Insurance Regulation 3 CCR 702-5(5-1-10)(III)(B)(1) and (4) provide:

(1) Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

(4) Each rate filing must be accompanied by rating data, as specified in § 10-4-403, C.R.S., including at a minimum past and prospective loss experience, loss costs or pure premium rates, expense provisions, and reasonable provisions for underwriting profits and contingencies, considering investment income from unearned premium reserves, reserves from incurred losses, and reserves from incurred but not reported losses

The following sample demonstrated that, in some instances during 1998, the Company failed to use rates on file with the Colorado Division of Insurance when issuing policies of insurance:

TITLE POLICIES ISSUED-1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
51,030	100	62	62%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing .20% of all new business title policies issued by the Company in Colorado during 1998, showed 62 instances (62% of the sample) wherein the Company issued title insurance policies using rates and/or rating rules not on file with the Division of Insurance and/or failed to use rates on file with the Colorado Division of Insurance when issuing policies of insurance.

Many files reviewed contained more than one rating error, however, to maintain sample integrity, each file was considered as a singular error regardless of the total errors contained in the file. Thus, the error frequency reported above was 62%, however the 100 files reviewed contained a total of 121 premium rating errors. The following chart contains a breakdown of the finding by coverage:

Type of Coverage	Number of Errors	% to Sample (file errors)	Range of Errors
Owner's	24 errors (24 files)	24%	Over: \$1.00 to \$369.00 (9 errors) Under: \$2.00 to \$375.00 (15 errors)
Lender's	21 errors (20 files)	20%	Over: No range- 1 file \$251.00 over Under: \$2.00 to \$5,901.00 (20 errors)
Endorsements	76 errors (43 files)	43%	Over: \$1.00 to \$70.00 (47 errors) Under: \$2.00 to \$300.00 (29 errors)
Total	121 errors* (62 files)	62%*	Over: \$1.00 to \$369.00 (58 errors) Under: \$2.00 to \$309.00 (63 errors) [one error \$5,901]

* Totals for files and percentages consider counting a file with multiple errors as a single exception.

Fifteen (15) of the 77 endorsement rating errors were rounding errors. Specifically, the Company's rating manual contains the following rounding rule:

Rates-Computing:

All charges for title insurance are to be computed in accordance with these rules and the Basic Schedule of Rates herein. These rates shall apply to all title commitments or policies issued. The total basic charge should be rounded to the nearest whole dollar.

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF COLORADO, Definitions Section at p. 3 (ed. 8/4/97).

Although the Company rule clearly indicates that all premium calculations and charges should be rounded to the nearest whole dollar, in these 15 instances premium calculations were rounded contrary to the Company's rule. The 15 endorsement rating errors related to misapplication of the Company's rounding rule all resulted in over and undercharges of \$1.00.

Two (2) other endorsement rating errors occurred when Company agents inadvertently issued corrective endorsements for no charge. In both instances lender's policies were amended with the Company's corrective endorsement 110.3 which, in accordance with the Company's 1998 rate filing, was provided at no additional charge. In both instances, however, the 110.3 endorsement purported to afford affirmative coverage for increased liability. The Company's rating manual, however, prohibits using the 110.3 corrective endorsement to extend any affirmative coverage.

In one of the two files, the endorsement purported to provide affirmative coverage by increasing the limits of liability for the advance on a construction loan. The appropriate endorsement for the increased liability for an advance on a construction loan was endorsement 108.8 (additional advance) which carried a \$50 initiation fee and required additional premium for any increased liability.

In the other instance where the Company incorrectly used the 110.3 endorsement, the endorsement was used provide affirmative coverage by increasing the limits of liability on a owner's policy. In accordance with the Company's filed rates, the 110.3 endorsement was provided at no charge, however, since the endorsement provided affirmative coverage for the increased liability the 110.3 endorsement was misused. The correct endorsement to increase liability in this instance was a 107.2 endorsement which carried a premium charge of 10% of the base rate plus \$50.00.

One of the lender's policy was issued at a \$100.00 simultaneous issue rate, however, no corresponding owner's policy was ever issued. Therefore, the premium charge for the policy should have been \$6,001.00 not the \$100.00 charged resulting in a \$5,901.00 undercharge.

The remainder of errors in all categories of coverage, owner's lender's, and endorsements, were rate miscalculation errors.

Recommendation #6:

Within 30 days the Company should provide documentation demonstrating why it should not be considered in violation of §§ 10-3-1104(1)(f)(II) and 10-4-403, C.R.S., and the filing requirements of 3 CCR 702-3(3-5-1). In the event the Company is unable to provide such documentation, it be required to provide assurances that all future policies will be issued in accordance with filed company rates and all premium charges will accurately reflect rates on file with the Colorado Division of Insurance.

The Company should also be required to perform a self-audit from January 1, 1998 to present and return any excess monies collected as determined by the self-audit. The self-audit should be performed in accordance with Colorado guidelines for self-audits.

RATING SECTION 2

Schedule of Rates, Fees & Charges

CLOSING & SETTLEMENT SERVICES.

Issue G: Failure to provide adequate financial and statistical data of past and prospective loss and expense experience to justify closing and settlement services fees and charges.

Section 10-3-1104(l)(f)(II), C.R.S., defines an unfair method of competition or deceptive act or practice in the business of insurance as:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Section 10-4-403(1), C.R.S., provides:

(a) Rates shall not be excessive, inadequate, or unfairly discriminatory.

Colorado Insurance Regulation 3 CCR 702-3(3-5-1)(VI)(K)), adopted in part to the authority granted under §10-4-404, C.R.S. provides:

K. Each title entity on an annual basis shall provide to the Commissioner of Insurance sufficient financial data (and statistical data if requested by the Commissioner) for the Commissioner to determine if said title entities' rates as filed in the title entities' schedule of rates are inadequate, excessive, or discriminatory in accordance with Part 4 of Article 4 of Title 10, C.R.S.

Each title entity shall utilize the income, expense and balance sheet forms, standard worksheets and instructions contained in the attachments labeled "Colorado Uniform Financial Reporting Plan" and "Colorado Agent's Income and Expense Report" designated as attachments A & B and incorporated herein by reference. Reproduction by insurers is authorized, as supplies will not be provided by the Colorado Division of Insurance.

Colorado Insurance Regulation 3 CCR 702-5(5-1-10)(III)(B)(1) and (4) provide:

(1) Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

(4) Each rate filing must be accompanied by rating data, as specified in § 10-4-403, C.R.S., including at a minimum past and prospective loss experience, loss costs or pure premium rates, expense provisions, and reasonable provisions for underwriting profits and contingencies, considering investment income from unearned premium reserves, reserves from incurred losses, and reserves from incurred but not reported losses

Whereas the Company's standard real estate closings and settlement fee for a realtor or broker was \$150.00 in 1998, the Company's rate filing contains a rating rule that charged higher closing and settlement and service fees for transactions in which the real estate sale was conducted by the property owners instead of a realtor or broker. The rule stated:

1. REALTOR OR BROKER TRANSACTION \$150/closing

\$65 charged to seller

\$65 charged to buyer

County Exceptions:	Boulder	\$130/closing
	Eagle	\$230/closing
	El Paso	\$140/closing
	Garfield	\$150/closing
	La Plata	\$200/closing
	Larimer	\$100/closing
	Pitkin	\$175/closing

Document preparation paid by realtor/broker \$5

2. FOR SALE BY OWNER \$500/closing

\$250 charged to seller

\$250 charged to buyer

County Exceptions:	La Plata	\$250/closing
	Larimer	\$200/closing

3. BUILDER OR CONDOMINIUM PROJECTS \$80/closing

To be charged as directed by builder or condominium project owner

County Exceptions:	Eagle	\$100/closing
	El Paso	\$50/closing
	Garfield	\$120/closing
	La Plata	\$200/closing
		\$150 for ten or more in same year
	Larimer	\$50/closing
	Pitkin	\$150/closing

5. LENDER'S LOAN PACKAGES CONCURRENT WITH SALE

Preparation of HUD closing statement and
disbursement \$150/closing

County Exceptions:	Boulder	\$120/closing
	El Paso	\$140/closing
	La Plata	\$75/closing
	Larimer	\$100/closing
	Weld	\$100/closing

6. LENDER'S LOAN PACKAGES (REFINANCE)

For preparation of all loan documents
check with manager \$150/closing

County Exceptions:	Boulder	\$120/closing
	Eagle	\$200/closing
	El Paso	\$140/closing
	La Plata	\$175/closing
	Larimer	\$100/closing
	Weld	\$100/closing

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF
COLORADO, Closing Charges Section at p. 1 & 2 (ed. 8/4/97).

In addition to establishing higher closing and settlement fees for transactions involving property
for sale by owners, the Company filed settlement and closing fee schedule cited above set forth
the following:

- The Company's filed schedule of settlement of closing fees and charges effective in Colorado for 1998 established a discount for closing conducted in coordination with a real estate transaction involving a builder/developer;
- The Company's filed schedule of settlement of closing fees and charges effective in Colorado for 1998 established deferential charges for closing costs on a county-by-county basis.

Pursuant to 3 CCR 702-3(3-5-1(VI)(K)), adopted under the authority granted by §10-4-404, C.R.S. the examiners requested Company representatives to produce sufficient financial and statistical data to demonstrate the Company's reduced closing fee for builders and developers, higher closing fees for real estate transactions sold by owners, and county-by-county fluctuations in closing fees contained in the cited schedule of closing and settlement fees and charges were not inadequate, excessive, or unfairly discriminatory in accordance with 10-4-401 et seq. Since the Company was unable to produce the 1998 filing, the examiners requested Company representatives to provide a prospective justification of the 1998 rates in accordance with the criteria established under the statutes cited above.

The Company's response to the examiners' request for statistical and financial justification of the Company's reduced closing fee for builders and developers, higher closing fees for real estate transactions sold by owners without involvement of a realtor or broker, and county-by-county fluctuations in closing fees contained in the Company's 1998 filed schedule of closing and settlement fees and charges was not sufficient justification of the cited rates and did not satisfy the requirements of §10-4-401 et seq., C.R.S. Specifically, the responses did not contain pertinent supporting financial or statistical data. In addition, the Company's responses did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of volume builder discount rates.

Recommendation #7:

Within 30 days, the Company should demonstrate why it should not be considered in violation of §§10-3-1104(1)(f)(II) and 10-4-403(1), C.R.S., and 3 CCR 702-3 (3-5-1)(VI)(A), (B) and (K) as applicable to the findings addressed in the text above. In the event the Company is unable to provide such documentation, it should be required to provide the Colorado Division of Insurance with adequate financial and statistical data of past and prospective loss and expense experience to justify the cited Company premium rates and closing and settlement fees and charges. The filing should specifically identify and explain how a reasonable profit provision is incorporated into the development of the Company's premium rates and closing and settlement fees and charges.

Issue H: Failing to file and/or using closing and settlement service fees and charges not on file with the Colorado Division of Insurance and/or misapplication of filed schedule of closing and settlement services fees and charges.

Section 10-4-401(3)(b). provides:

Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Additionally, Section 10-3-1104(1)(f)(II), C.R.S., defines unfair discrimination as:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Consistent with the provision of §10-4-401 et seq., 3 CCR 702-3(3-5-1) requires all title insurers offering coverage in Colorado to comply with Colorado laws and regulations regarding rates and rating practices. Specifically, the regulation provides in pertinent parts:

IV. SCHEDULE OF RATES, FEES AND CHARGES--TITLE INSURANCE POLICIES

A. Every title insurer shall adopt, print and make available to the public a schedule of rates, fees and charges for regularly issued title insurance policies including endorsements, guarantees and other forms of insurance coverages, together with the forms applicable to such fees. . .

. . .G. Such schedule must be filed with the Commissioner in accordance with Part 4 of Article 4, Title 10, C.R.S., and Section 118, Article 11, Title 10, C.R.S., and any applicable regulation or regulations on rates, rate filings, rating rules, classification or statistical plans. . . .

. . .J. No title entity shall quote any rate, fee or make any charge for a title policy to any person which is more or less than that currently available to others

for the same type of title policy in a like amount, covering property in the same county and involving the same factors as set forth in its then currently effective schedule of rates, fees and charges. . . .

. . .V. SCHEDULE OF FEES AND CHARGES--CLOSING AND SETTLEMENT SERVICES

A. Every title entity shall adopt, print, and make available to the public a schedule of fees and charges for regularly rendered closing and settlement services. . . .

. . .F. Such schedule must be filed with the Commissioner in accordance with Section 118, Article 11, Title 10, C.R.S., and Part 4 of Article 4, Title 10, C.R.S., and any applicable regulation or regulations on rates, rate filings, rating rules, classification or statistical plans. . . .

. . .I. No title entity shall quote any fee or make any charge for closing and settlement services to any person which is less than that currently available to others for the same type of closing and settlement services in a like amount, covering property in the same county and involving the same factors, as set forth in its then currently effective schedule of fees and charges.

Colorado Insurance Regulation 3 CCR 702-5(5-1-10)(III)(B)(1) and (4) provide:

(1) Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

(4) Each rate filing must be accompanied by rating data, as specified in § 10-4-403, C.R.S., including at a minimum past and prospective loss experience, loss costs or pure premium rates, expense provisions, and reasonable provisions for underwriting profits and contingencies, considering investment income from unearned premium reserves, reserves from incurred losses, and reserves from incurred but not reported losses

Failure to File Certain Settlement & Closing Fees & Charges

A review of the Company rate filings and rating manual used and in Colorado during 1998 demonstrated that, during 1998 the Company's rating manual contained a section entitled

‘UNFILED RATES.’ This section included rates pertaining to fees for miscellaneous charges associated with closing services performed.

The following list is a sample of closing and settlement fees and charges set forth under the “unfiled rates” section of the Company’s rate manual. The following list is only demonstrative of charges set forth in the unfiled rates section of the Company’s rate manual contained a schedule of, the list is not all inclusive.

- Written Owner’s and Encumbrance searches \$100.00
- Wire Transfer Fees..... \$15/wire
- Holding Earnest Money Deposits \$100/deposit
- Status of title for listing agents \$30.00
- Express mail fees..... 16.00

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF COLORADO, Unfiled Rates Section pp. 1 and 2 (ed. 8/4/97).

The Company was requested to produce evidence demonstrating the closing and settlement service fees and charges set forth in the “unfiled section” of the Company’s rate manual were filed with the Colorado Division of Insurance. The Company, however, was unable to produce a copy that section of the rate manual bearing the Division’s “Filed Stamp,” and or other evidence demonstrating that section of the cited section of the rate manual was ever filed.

In addition to the findings stated above, the following sample demonstrated that, in some instances during 1998, the Company failed to follow rates on file with the Colorado Division of Insurance when issuing policies of insurance:

TITLE POLICIES ISSUED-1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
51,030	100	95	95%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing .20% of all new business title policies issued by the Company in Colorado during 1998, showed 95 instances (95% of the sample) wherein the Company conducted real estate closing and settlement services in coordination with the issuance of title insurance policies and collected fees and charges for the closing and settlement services which deviated from the Company’s closing and settlement services fee schedule filed with the Colorado Division of Insurance.

Many files reviewed contained more than one rating error, however, to maintain sample integrity, each file was considered as a singular error regardless of the total errors contained in the file. Thus, the error frequency reported above was 95%, however the 100 files reviewed contained a total of 188 closing and settlement rating errors. All rating errors fell into specific sub-categories of closing and settlement fees and charges as discussed and outlined below.

OVERCHARGES FOR MISCELLANEOUS FEES ASSOCIATED WITH CLOSINGS PERFORMED BY THE COMPANY'S AGENT

Misapplication of Express Fee Charges

In 32 of the 95 reported files (32% of the sample), the Company's agents collected monies from insureds for express mail and/or courier charges for express mail delivery charges. Further review of the files demonstrated that, whenever a closing required an express mailing, the Company's practice was to charge a flat fee for the charges incurred. The Company's flat fee for express mailings ranged from \$15.00 to \$48.00.

The Company's filing with the Colorado Division of Insurance does not anticipate or provide for any additional charges or fees over an above the actual costs incurred for any express mailing conducted in associated with express delivery charges. Since the actual charges incurred in relation to these mailing charges was not documented in any of the files reported here, a range of error in over or undercharges was not discernable.

Tax Certificate Charges

Eighty-four (84) of the 95 reported files (84% of the sample) contained overcharges related to tax certificates obtained by Company agents on behalf of insureds in conjunction with closing services performed by the Company agent. Specifically, a review of 100 underwriting files demonstrated that, in 1998, Company agents had a practice of charging a flat rate for tax certificates obtained in conjunction closings services regardless of the actual cost incurred in obtaining the tax certificate. The practice of charging a flat rate for tax certificates (flat rate fees ranged between \$13.00 and \$30.00) generally resulted in Company agents charging excess funds for tax certificates obtained by the agency. Since the Company failed to file any flat rate for tax certificates with the Colorado Division of Insurance, any monies collected in excess of the actual cost of obtaining the tax certificates resulted in the collection of an unfiled fee and application of an unfiled rate. The 84 errors resulted in overcharges ranging between \$3.00 and \$50.00 on a per file basis.

Overcharges & Miscalculation of Recording Fees

Seven (7) of the 95 reported files (7% of the sample) contained overcharges and miscalculations of charges made by Company agents to cover the costs of recording and/or filing documents incidental to the conveyance of real property. Such recorded documents

include mortgages, deeds of trust, assignments, powers of attorney, warranty deeds and releases. As in the case of express mail charges, many of the overcharges resulted from Company agents charging flat rates for recording a particular document.

Moreover, the overcharges in the 7 files reported here resulted from flat rate fees charged by the Company's agent for obtaining releases. Since the Company failed to file any flat rate for recording or filing such documents, any monies collected in excess of the actual cost of recording or filing the specific document resulted in the collection of unfilled fees and application or use of unfilled rates. All 7 errors resulted in a \$2.00 overcharge.

Overcharges of Miscellaneous Fees Associated with Closings

Five (5) of the 95 reported files (5% of the sample) contained overcharges made by Company agents for miscellaneous expenses incurred in conducting closings. Such expenses included wire fees, document preparation charges, and cashier's check charges. As in the case of express mail and recording charges discussed above, many of the overcharges resulted from Company agents charging flat rates to defray the costs of such services. Since the Company or its agents failed to file any flat rates to cover these miscellaneous expenses, all monies collected in excess of the actual cost of performing or obtaining such goods or services resulted in the collection of unfilled fees and application or use of unfilled rates. The 5 errors resulted in overcharges ranging between \$6.00 and \$16.00.

OVERCHARGES & MISCALCULATIONS OF FILED CLOSING FEES

Thirty-two (32) of the 95 reported files (32% of the sample) contained rating errors⁴ in which the Company agents deviated from the Company's schedule of fees and charges for regularly rendered closing and settlement services, filed with the Colorado Division of Insurance. Specifically, the files contained rating errors in which Company agents made charges for basic closing fees that deviated from the Company or its agent's filed fee schedule. The 32 errors resulted in overcharges ranging between \$5.00 and \$100.00 and undercharges ranging between \$10.00 and \$112.50.⁵

In addition to using unfilled rates in determining closing charges, in 28 of the 32 files reported here, the agency charged Colorado consumers insured under owner's policies an additional \$5.00 document preparation charge. Although the \$5.00 fee was filed with the Colorado Division of Insurance, the Company's filed schedule of closing and settlement fees and charges required the listing broker or realtor to pay the fee, not the insured.

⁴ Many of the 32 files reported here contained rating errors regarding closing fees for both the real estate and lender closing transaction. Where multiple closing fee errors occurred within a file, the file was only reported as a single error.

⁵ The range of error reported here is based on the miscalculation or misapplication of a single closing fee, either real estate or lender. The range does not represent the total monetary error contained in a file with multiple closing fee errors.

Specifically, the filed schedule of closing and settlement services and fees provided:

1. REALTOR OR BROKER TRANSACTION \$150/closing

\$65 charged to seller

\$65 charged to buyer

County Exceptions:	Boulder	\$130/closing
	Eagle	\$230/closing
	El Paso	\$140/closing
	Garfield	\$150/closing
	La Plata	\$200/closing
	Larimer	\$100/closing
	Pitkin	\$175/closing

Document preparation paid by realtor/broker \$5

Old Republic National Title Insurance Company, RATE MANUAL FOR THE STATE OF COLORADO, Closing Charges Section at p. 1 & 2 (ed. 8/4/97).

As cited above, the Company's filed schedule of closing and settlement services fees and charges required the \$5.00 document preparation charge be assessed against the realtor/broker in all realtor/broker real estate closing transactions. In these 28 instances the Company's agent inappropriately assessed the \$5.00 charge against the buyers escrow account instead of charging the realtor/broker as required by operation of Company rule.

Recommendation #8:

Within 30 days the Company should provide documentation demonstrating why it should not be considered in violation of §§ 10-3-1104(1)(f)(II) and 10-4-403, C.R.S., and the filing requirements of 3 CCR 702-3(3-5-1). In the event the Company is unable to provide such documentation, it should be required to demonstrate that it has reviewed its procedures relating to the filing of rates and rating rules and has implemented procedures which will assure future compliance with the filing requirements of the Colorado Division of Insurance.

The Company should also be required to provide assurances that all future closings services will be provided in accordance with the appropriate filed closing and settlement fee schedule and all such charges will accurately reflect rates on file with the Colorado Division of Insurance.

Finally, the Company should be required to address certain individual rating issues presented in this report as identified below:

Regarding overcharges in filed Company closing fees, the Company should be required to perform a self audit from January 1, 1998 to present and return any excess monies collected as determined by the self audit. The self-audit should specifically identify all realtor broker closings conducted by the Company's agent in which the \$5.00 realtor/broker document preparation fee was assessed against the insured instead of the realtor broker. The self-audit should be performed in accordance with Colorado guidelines for self-audits.

Regarding miscellaneous closing fees and charges; the Company should be required to either adopt and implement procedures which will assure that the Company's agents will only bill for the actual amount of the goods or services used or procured in the closing transaction, or the Company should amend its filed fee schedule to include rules which supports its agents' practices of charging monies in excess of the actual costs incurred or waiving such charges where such charges are incurred.⁶ The Company should also provide written assurances that Company agents will not charge any miscellaneous closing fee or expense unless such charges are actually incurred and, whenever charges are collected up-front, excess money will be refunded when the services are not subsequently performed.

⁶ Any fee filing made by a title insurance agency is subject to §10-4-401 et seq., and may not be excessive, inadequate, or unfairly discriminatory. In addition, a fee schedule waiver rule may conflict with 3 CCR 702-3 (3-5-1)(VI)(B)(8) which prohibits title insurance entities from:

8. Waiving, or offering to waive, all or any part of the title entity's established fee or charge for services which are not the subject of rates filed with the Commissioner.

A scheduled fee waiver rule that provides for the waiver or nominal amounts and is applied consistently and in a nondiscriminatory fashion may comport with the intent of the regulation.

PERTINENT FACTUAL FINDINGS

Relating to

CLAIMS PRACTICES

Issue I: Failure to adopt and/or implement reasonable standards for the prompt investigation of claims.

Section 10-3-1104(1)(h)(III), C.R.S., defines an unfair claims settlement practice as:

Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

TITLE CLAIMS SUBMITTED - 1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
114	50	18	36%

An examination of 50 systematically selected claims files, representing 44% of all claims submitted to the company in Colorado during 1998, showed 18 instances (36% of the sample) wherein the Company failed to adopt and/or implement reasonable standards for the prompt investigation of claims arising under insurance policies.

Although the Company's claims manual did not have a specific rule regarding notice of receipt of a claim, a review of 50 systematically selected claim files demonstrated that the Company's practice was to provide notice of receipt of claims within 48 hours. In one of the 18 files reported above the Company failed to provide a claimant with notice of receipt of the claim for 21 days. This delay did not comport with Company claims handling procedures. The others 17 reported instances were all claim delays resulting from the Company's failure to adopt and/or implement procedures to diary, update or track open claim files.

Specifically, a review of the Company's claims manual effective in Colorado during 1998 demonstrated that the Company failed to adopt procedures regarding updating, and/or otherwise tracking open claim files. The manual merely contained a suggestion that all claims and communications regarding claims should be handled in timely manner. Instead of including adjuster notes or updates, the Company's regional claims manager would write a date on the outside of the file intended to indicate the file had been periodically reviewed. This dating generally occurred in 2 or 3 month intervals. Notwithstanding the Regional Claims manger's practice, each file reported here did not contain information regarding the status or handling of the claim. Thus the 17 files discussed here were void of any status updates and remained idle for a period ranging between 55 and 434 days.

Furthermore, the period of idleness discussed above occurred most frequently in instances in which the Company's adjuster hired outside counsel to cure a title defect or otherwise assist in handling a claim. Whenever the adjuster delegated the handling of a claim to outside counsel, the adjuster failed to monitor, document or otherwise update or monitor the claim to assure fair, equitable and prompt handling as required by §§10-3-1104(1)(h) et seq., C.R.S. The Company's claims manual does not contain any rules regarding monitoring or updating claim

files involving outside counsel or other individuals or entities procured to assist in handling Company claims.

Whenever an insurer routinely delegates claims handling functions, the insurer should adopt and implement procedures for monitoring assigned claims to assure the claim is processing in compliance with Colorado laws. The Company's failure to adopt specific procedures for monitoring, updating, and/or otherwise tracking open claim files combined with the absence of adjuster or file notes and lengthy periods of claim file idleness and/or delays does not comply with §10-3-1104(1)(h)(III).

Recommendation #9:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of § 10-3-1104(1)(h)(III), C.R.S. In the event the Company is unable to show such proof, it should provide evidence that it has reviewed all Company rules, manuals and procedures relating to the investigation and handling of claims and that it has adopted reasonable procedures to assure the Division of Insurance that all claims will be paid and investigated in accordance with Colorado Insurance Laws.

Issue J: Failure to produce and/ or maintain adequate records for market conduct review.

Pursuant to the authority granted by § 10-1-109, C.R.S., Colorado Insurance Regulation 1-1-7 was adopted to assist the commissioner in carrying out market conduct examinations in accordance with Colorado law. Colorado Insurance Regulation 1-1-7 provides in pertinent parts:

B. RECORDS REQUIRED FOR MARKET CONDUCT PURPOSES

1. Every insurer/carrier or related entity licensed to do business in this state shall maintain its books, records, documents and other business records so that the insurer's/carrier's or related entity's claims, rating, underwriting, marketing, complaint, and producer licensing records are readily available to the commissioner. Unless otherwise stated within this regulation, records shall be maintained for the current calendar year plus two calendar years.
2. A policy record shall be maintained for each policy issued in this state. Policy records shall be maintained for the current policy term, plus two calendar years, unless otherwise contractually required to be retained for a longer period. Provided, however, documents from policy records no longer required to be maintained under this regulation, which are used to rate or underwrite a current policy, must be maintained in the current policy records. Policy records shall be maintained as to show clearly the policy term, basis for rating and, if terminated, return premium amounts, if any. Policy records need not be segregated from the policy records of other states so long as they are readily available to the commissioner as required under this rule. A separate copy need not be maintained in the individual policy records, provided that any data relating to that policy can be retrieved. Policy records shall include:
 - a. The application for each policy, if any;
 - b. Declaration pages, endorsements, riders, termination notices, guidelines or manuals associated with or used for the rating or underwriting of the policy. Binder(s) shall be retained if a policy was not issued; and
 - c. Other information necessary for reconstruction of the rating and underwriting of the policy.
3. Claim files shall be maintained so as to show clearly the inception, handling and disposition of each claim. A claim file shall be retained for the calendar year in which it is closed plus the next two calendar years.

4. Records relating to the insurer's/carrier's or related entity's compliance with this state's producer licensing requirements shall be maintained, which shall include the licensing records of each agency and producer associated with the insurer or related entity. Licensing records shall be maintained so as to show clearly the dates of the appointment and termination of each producer.
5. The complaint records required to be maintained under Section 10-3-1104, C.R.S. and Regulation 6-2-1.

Records required to be retained by this regulation may be maintained in paper, photograph, microprocess, magnetic, mechanical or electronic media, or by any process which accurately reproduces or forms a durable medium for the reproduction of a record. A company shall be in compliance with this section if it can produce the data which was contained on the original document, if there was a paper document, in a form which accurately represents a record of communications between the insured and the company or accurately reflects a transaction or event. Records required to be retained by this regulation shall be readily available upon request by the commissioner or a designee. Failure to produce and provide a record within a reasonable time frame shall be deemed a violation of this regulation, unless the insurer or related entity can demonstrate that there is a reasonable justification for that delay.

TITLE CLAIMS SUBMITTED - 1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
114	50	20	40%

An examination of 50 systematically selected claims files, representing 44% of all claims submitted to the company during 1998, showed 20 instances (40% of the sample) wherein the Company failed to adequately document claim files sufficient to allow the examiners to determine compliance with Colorado law. Specifically, in these 20 instances the claims files were not adequately documented to clearly show the inception, handling and/or disposition of the respective claim.

Recommendation #10:

Within 30 days, the Company should provide written documentation demonstrating why it should not be considered in violation of 3 CCR 702-1(1-1-7), as authorized by §10-1-109, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating the Company has reviewed its procedures pertaining to record maintenance in the context of claims handling. Particular areas of concern should include, but should not be limited to, adjuster notes, telephone logs and retention of all correspondence related to the respective claim, including correspondence directed to the Company's agents regarding any inquiry or claim.

Once the Company has reviewed those procedures, the Company should be required to demonstrate it has amended its claims manual and implemented procedures which will assure claim files will be maintained so as to clearly show the inception, handling and disposition of each claim and generally assure future compliance with the requirements of the law.

Issue K: Making claims payments to insureds or beneficiaries without including a statement setting forth the coverage under which the payment is being made.

Section 10-3-1104(1)(h)(X), C.R.S. defines an unfair claims settlement practice in the business of insurance as:

Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;
or

TITLE CLAIMS SUBMITTED - 1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
114	50	4	8%

An examination of 50 systematically selected claims files, representing 44% of all claims submitted to the company during 1998, showed 4 instances (8% of the sample) wherein the Company made claims payments to insureds or beneficiaries without including a statement setting forth the coverage under which the payments were made.

Recommendation #11:

Within 30 days, the Company should provide written documentation demonstrating why it should not be considered in violation of § 10-3-1104(1)(h)(X). In the event the Company is unable to provide such documentation, the Company should be required to provide evidence demonstrating the Company has reviewed its procedures pertaining to the payment of claims and has implemented procedures which will assure future compliance with the requirements of the statute.

PERTINENT FACTUAL FINDINGS

Relating to

FINANCIAL REPORTING

Issue L: Failure to file a Colorado Uniform Financial Reporting Plan and/or failure to submit an annual filing of sufficient financial data to justify Company rates.
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Section 10-4-404, C.R.S. provides in part:

(1) The commissioner shall promulgate rules and regulations which shall require each insurer to record and report its loss and expense experience and such other data, including reserves, as may be necessary to determine whether rates comply with the standards set forth in section 10-4-403. Every insurer or rating organization shall provide such information and in such form as the commissioner may require. No insurer shall be required to record or report its loss or expense experience on a classification basis that is inconsistent with the rating system used by it. The commissioner may designate one or more rating organizations or advisory organizations to assist him in gathering and in compiling such experience and data. No insurer shall be required to record or report its experience to a rating organization unless it is a member of such organization.

Colorado Insurance Regulation 3 CCR 702-3(3-5-1(VII)(K)), adopted in part to the authority granted under §10-4-404, C.R.S. provides:

K. Each title entity on an annual basis shall provide to the Commissioner of Insurance sufficient financial data (and statistical data if requested by the Commissioner) for the Commissioner to determine if said title entities' rates as filed in the title entities' schedule of rates are inadequate, excessive, or discriminatory in accordance with Part 4 of Article 4 of Title 10, C.R.S.

Each title entity shall utilize the income, expense and balance sheet forms, standard worksheets and instructions contained in the attachments labeled "Colorado Uniform Financial Reporting Plan" and "Colorado Agent's Income and Expense Report" designated as attachments A & B and incorporated herein by reference. Reproduction by insurers is authorized, as supplies will not be provided by the Colorado Division of Insurance.

3 CCR 702-3(3-5-1) requires all title insurers authorized to provide coverage in Colorado to annually file a "Colorado Uniform Financial Reporting Plan" in a format described and appended to the regulation as "Attachment A". The regulation requires all title agents licensed in Colorado to annually file a "Colorado Agent's Income and Expense Report" described and appended to the regulation as "Attachment B".

In addition, the regulation requires all title insurers to file sufficient financial data and, upon request, statistical data to justify the title insurers rates and otherwise assure the rates used by the Company comply with the requirements of §10-4-403 et. Seq., C.R.S., and are not excessive, inadequate, or unfairly discriminatory.

A review of the Company's 1998 financial statement and related documents and filings demonstrated that the Company failed to file a Colorado Uniform Financial Reporting Plan [3 CCR 702-3 (3-5-1) attachment A] as required by the regulation. In addition, the Company failed to file sufficient financial data to allow the Division to determine whether rates used by the company were excessive, inadequate, or unfairly discriminatory.

Based on the above, the examiners requested representatives of the Colorado Division of Insurance review the Company's 1998 financial statement and related filings to verify the above. That review demonstrated that the Company did not file the requisite Colorado specific report and/or financial data.

Recommendation #12:

Within 30 days, the Company should demonstrate why it should not be considered in violation of the financial data filing requirements established under 3 CCR 702-3(3-5-1(VII)(K)). In the event the Company is unable to provide such documentation, it should be required to provide evidence that it has amended its annual filing procedures so that those procedures anticipate filing of the Colorado Uniform Financial Reporting Plan (Schedule A). The Company should also be required to provide written assurances that it will annually file sufficient financial data to allow the Commissioner to determine whether the insurers rates are inadequate, excessive, or unfairly discriminatory and otherwise assure future compliance with Colorado financial reporting and filing laws.

SUMMARY OF RECOMMENDATIONS

for

EXAMINATION REPORT ON OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

RECOMMENDATION NUMBER	PAGE NUMBER	TOPIC
1	14	Issue A: Failure to provide written notification to prospective insureds of the Company's general requirements for the deletion of exceptions or exclusions to coverage related to unfiled mechanics or materialman's liens and/or the availability of mandatory GAP coverage.
2	16	Issue B: Misrepresenting the benefits, advantages, conditions or terms of insurance policies by omitting applicable endorsements.
3	18	Issue C: Failure to obtain written closing instructions from all necessary parties when providing closing and/or settlement services for Colorado consumers.
4	20	Issue D: Failure to follow Company underwriting procedures and/or guidelines.
5	33	Issue E: Failure to provide and/or make an annual filing of adequate financial and statistical data of past and prospective loss and expense experience to justify certain title insurance premium rates.
6	38	Issue F: Using rates and/or rating rules not on file with the Colorado Division of Insurance and/or misapplication of filed rates.
7	43	Issue G: Failure to provide adequate financial and statistical data of past and prospective loss and expense experience to justify closing and settlement fees and charges.

SUMMARY OF RECOMMENDATIONS

for

EXAMINATION REPORT ON OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

RECOMMENDATION NUMBER	PAGE NUMBER	TOPIC
8	49	Issue H: Failing to file and/or using closing and settlement service fees and charges not on file with the Colorado Division of Insurance and/or misapplication of filed schedule of closing and settlement services fees and charges.
9	53	Issue I: Failure to adopt and/or implement reasonable standards for the prompt investigation of claims.
10	56	Issue J: Failure to produce and/ or maintain adequate records for market conduct review.
11	57	Issue K: Making claims payments to insureds or beneficiaries without including a statement setting forth the coverage under which the payment is being made.
12	60	Issue L: Failure to file a Colorado Uniform Financial Reporting Plan and/or failure to submit an annual filing of sufficient financial data to justify Company rates.

EXAMINATION REPORT SUBMISSION

Independent Market Conduct Examiners
Duane G. Rogers, Esq.,
&
J. Reuben Hamlin, Esq.,
participated in this examination and in the preparation of this report.